

### **REMARKS**

Reconsideration and allowance of the subject application are respectfully requested. Applicant thanks the Examiner for total consideration given the present application. Claims 1-38 are pending prior to the Office Action. No claims have been added and claims 8, 15-26, 37, and 39 have been canceled without prejudice or disclaimer to the subject matter included therein through this reply. Therefore, claims 1-7, 9-14, 27-36, and 38 are pending. Claims 1, 4-5, 33, and 38 are independent. Applicant respectfully requests reconsideration of the rejected claims in light of the remarks presented herein, and earnestly seeks timely allowance of all pending claims.

### **OFFICIAL ACTION**

#### **Preliminary Comments**

##### Telephone discussion with the Examiner

Applicant thanks the Examiner for the clarification regarding the 35 U.S.C. § 112. The Examiner has informed Applicant claim 38 is rejected under 35 U.S.C. § 112, not claim 39. This reply will address the 35 U.S.C. § 112 rejection accordingly.

##### Request for Accepted Drawings

The Examiner has objected to the Drawings. Applicant has labeled Figures 15-19 as "Conventional Art" as supported by the Specification (page 1, line 19: CONVENTIONAL ART). Applicant respectfully asks the Examiner to indicate the acceptance of the drawings in the next Office Action based on the added labels of "Conventional Art" which are in accordance with the disclosure.

##### Objection to the Disclosure

The Examiner has objected to the disclosure because of numerous run-on sentences. Applicant has reviewed the specification in order to correct any deficiencies found, however, Applicant believes the disclosure to be in proper format. If the Examiner has a specific

request(s) regarding the disclosure, Applicant is willing to abide to the specific request(s) of the Examiner, but at this time, Applicant does not find any deficiencies in the sentences of the disclosure. Applicant respectfully asks the Examiner to indicate the acceptance of the disclosure in the next Office Action.

#### Claim Objections

The Examiner has objected to claim 38 for the phrase “any one of claims 1”. Claim 38 has been amended accordingly, thus Applicant respectfully asks the Examiner to remove the outstanding objection to claims 38.

#### **Claim Rejection - 35 U.S.C. § 112**

Claim 38 is rejected for allegedly omitting essential steps. Claim 38 has been amended to independent format with no omitted essential steps present in the claim. Based on this amendment, it is respectfully requested that the outstanding rejection be withdrawn.

#### **Claim Rejection - 35 U.S.C. § 102(b)**

Claims 1-7, 9, 33, 34 and 38 stand rejected under 35 U.S.C. § 102(b) as being allegedly anticipated over Fukae et al. (U.S. Patent Publication 2002/0199051). Applicant respectfully traverses this rejection.

For a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. *See M.P.E.P. 2131; M.P.E.P. 706.02*. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn.

In this instance, Fukae fails to teach or suggest each and every claimed element.

#### **Claim 1 feature not taught by Fukae:**

Independent claim 1 recites, *inter alia*, “in the event that at least one of the error detection circuit or circuits detects at least one of the error or errors within at least one of the receive signal or signals during at least one of the data transfer phase or phases, one or more

transitions is made from at least one of the data transfer phase or phases to at least one of the tone phase or phases, and after at least one of such transition or transitions has occurred, at least one of the data transfer phase transition suppressor circuit or circuits carries out control so as to prevent transition back to at least one of the data transfer phase or phases.” *Emphasis added.*

According to claim 1, the maximum transfer rate for a channel is determined in the tone phase through exchange of a tone signal, and data transfer is carried out in the data transfer phase at the determined transfer rate. If the number of errors is judged to be large during the data phase transfer phase, the transceiver circuit prevents a transition back to the data transfer phase after a transition to the tone phase.

On the other hand, Fukae fails to mention any solution for the case where the error rate is higher when it is impossible to transfer data at the lowest transfer rate in a node or the case where the error rate is extremely high during the speed negotiation.

Thus, the present invention is different from Fukae in that the present invention prevents a transition back to the data transfer phase when the error rate is extremely bad.

In sum, Fukae does not teach or suggest making a transition from the data transfer phase to the tone phase based on detecting an error, and then after the transition, the data transfer phase transition suppresser circuit carries out control so as to prevent transition back to the data transfer phase.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 1-3 and 38 under 35 U.S.C. § 102(b).

Reconsideration and allowance of claims 1-3 and 38 are respectfully requested for at least these reasons.

**Claim 4 feature not taught by Fukae:**

Independent claim 4 recites, *inter alia*, “in the event that at least one of the error detection circuit or circuits detects at least one of the error or errors within at least one of the receive signal or signals during at least one of the data transfer phase or phases, one or more transitions is made from at least one of the data transfer phase or phases to at least one of the

tone phase or phases, and **after at least one of such transition or transitions has occurred**, at least one of the speed negotiation phase transition suppressor circuit or circuits carries out control so as to **prevent transition to at least one of the speed negotiation phase or phases**.”  
*Emphasis added.*

According to claim 4, the maximum transfer rate for a channel is determined in the speed negotiation phase, and data transfer is carried out in the data transfer phase at the determined transfer rate. If the number of errors is judged to be large during the data phase transfer phase, the transceiver circuit prevents a transition back to the speed negotiation phase after a transition to the tone phase.

On the other hand, Fukae fails to mention any solution for the case where the error rate is higher when it is impossible to transfer data at the lowest transfer rate in a node or the case where the error rate is extremely high during the speed negotiation.

Thus, the present invention is different from Fukae in that the present invention prevents a transition back to the speed negotiation phase when the error rate is extremely bad.

In sum, Fukae does not teach or suggest making a transition from the data transfer phase to the tone phase based on detecting an error, and then after the transition, the speed negotiation phase transition suppresser circuit carries out control so as to prevent transition back to the speed negotiation phase.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 4 and 6-7 under 35 U.S.C. § 102(b).

Reconsideration and allowance of claims 4 and 6-7 are respectfully requested for at least these reasons.

**Claim 5 feature not taught by Fukae:**

Independent claim 5 recites, *inter alia*, “in the event that at least one of the error detection circuit or circuits detects at least one of the error or errors within at least one of the receive signal or signals during at least one of the speed negotiation phase or phases, one or more transitions is made from at least one of the data transfer phase or phases to at least one of the tone phase or phases, and **after at least one of such transition or transitions has occurred**, at

least one of the speed negotiation phase transition suppressor circuit or circuits carries out control so as to **prevent transition to at least one of the speed negotiation phase or phases.**

*Emphasis added.*

According to claim 5, the maximum transfer rate for a channel is determined in the speed negotiation phase, and data transfer is carried out in the data transfer phase at the determined transfer rate. If the number of errors is judged to be large during the speed negotiation phase, the transceiver circuit **prevents a transition back** to the speed negotiation phase after a transition to the tone phase.

On the other hand, Fukae fails to mention any solution for the case where the error rate is higher when it is impossible to transfer data at the lowest transfer rate in a node or the case where the error rate is extremely high during the speed negotiation.

Thus, the present invention is different from Fukae in that the present invention prevents a transition back to the speed negotiation phase when the error rate is extremely bad.

In sum, Fukae does not teach or suggest making a transition from the data transfer phase to the tone phase based on detecting an error, and then after the transition, the speed negotiation phase transition suppressor circuit carries out control so as to **prevent transition back to the speed negotiation phase.**

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 5 under 35 U.S.C. § 102(b).

Reconsideration and allowance of claim 5 is respectfully requested for at least these reasons.

**Claim 33 feature not taught by Fukae:**

Independent claim 33 recites, *inter alia*, “in the event that at least one of the error detection circuit or circuits detects at least one of the error or errors within at least one of the receive signal or signals during at least one of the data transfer phase or phases when at least one result of at least one comparison made by at least one of the transfer rate comparison circuit or circuits is that at least one of the transfer rate or rates employed during at least one of the data transfer phase or phases is greater than the minimum transfer rate or rates of the transceiver

circuit, one or more transitions is made from at least one of the data transfer phase or phases to at least one of the tone phase or phases, and thereafter, the maximum transfer rate of the transceiver circuit during at least one of the speed negotiation phase or phases is set so as to be at least one rate that is lower than at least one transfer rate employed during at least one of the data transfer phase or phases.”

Fukae does not disclose a transition is made from the data transfer phase to the tone phase based on an error being detected during the data transfer phase when a result of a comparison made by the transfer rate comparison circuit is that the transfer rate employed during the data transfer phase is greater than the minimum transfer rate of the transceiver circuit, and thereafter, the maximum transfer rate of the transceiver circuit during the speed negotiation phase is set so as to be a rate that is lower than the transfer rate employed during the data transfer phase.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 33-34 under 35 U.S.C. § 102(b).

Reconsideration and allowance of claims 33-34 are respectfully requested for at least these reasons.

#### **Claim Rejection - 35 U.S.C. § 103(a)**

Claims 10-14, 35-32 and 35-36 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Fukae et al. (U.S. Patent Publication 2002/0199051) in view of Peponides (U.S. Patent 5,790,941). Applicant respectfully traverses this rejection.

Claims 10-14, 35-32 and 35-36 are dependent on independent claims 1, 4-5, and 33, therefore, includes all the limitations of independent claims 1, 4-5, and 33. Thus, Applicant submits that claims 10-14, 35-32 and 35-36 are allowable at least by virtue of its dependency on claims 1, 4-5, and 33. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Therefore, for at least these reasons, all claims are believed to be distinguishable over the combination of Fukae and Peponides, individually or in any combination. It has been shown above that the cited references, individually or in combination, may not be relied upon to show at least these features. Therefore, claims 1-7, 9-14, 27-36, and 38 are distinguishable over the cited references.

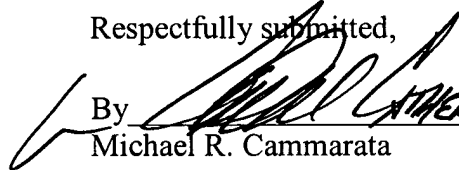
Applicant respectfully requests that the claims 1-7, 9-14, 27-36, and 38 be allowed.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned, at the telephone number below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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